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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,846	11/09/2001	Claude Couture	CLW 2 0148	7917
7590 01/12/2005			EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2516			TRAN, THAO T	
			ART UNIT	PAPER NUMBER
			1711	
DATE MAILED: 01/12/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/044,846

Applicant(s)

COUTURE ET AL.

Examiner

Thao T. Tran

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-9 and 66-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-9 and 66-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/20/04 has been entered.
2. Claims 4-9, 66-82 are currently pending in this application. Claims 1-3 and 10-65 have been canceled. Claim 4 has been amended.
3. In view of the prior Office action of June 3, 2004, the rejection of claims 4-6 and 66-82 under 35 U.S.C. 102(b) as being anticipated by Mindt et al. (US Pat. 4,296,234) has been withdrawn due to the Amendments made thereto.
4. In view of the prior Office action of June 3, 2004, the rejection of claims 4-9 and 66-82 under 35 U.S.C. 102(b) as being anticipated by Irie et al. (US Pat. 5,264,495) has been withdrawn due to the Amendments made thereto.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 4-9, 66-82 are rejected under 35 U.S.C. 102(b) as being anticipated by Qin et al. (US Pat. 5,550,189).

In regards to claims 4-9, 66-68, and 70-73, Qin teaches a water-swellaable modified polysaccharide formed by mixing the modified polysaccharide, water, and a crosslinking agent (see abstract; col. 3, ln. 15-17; col. 13, ln. 63-66). The polysaccharide is carboxyalkyl polysaccharide, such as carboxymethyl cellulose or carboxymethyl starch; and the crosslinking agent is ethylene glycol or butylene glycol (see paragraph bridging col. 5-col. 6; col. 6, ln. 2-11; col. 13, ln. 1-15).

In regards to claim 69, the polysaccharide product is for use in personal care products, such as diapers (see col. 14, ln. 38-40). Moreover, it has been within the skill in the art that intended use would have insignificant patentable weight in a product claim.

In regards to claims 74-82, with respect to how the crosslinked polysaccharide is being formed, it has been within the skill in the art that process limitations would have insignificant patentable weight in a product claim, since the product would include the polysaccharides crosslinked by a polyalkylene oxide.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 4-9, 66-82 have been considered but are moot in view of the new ground(s) of rejection.

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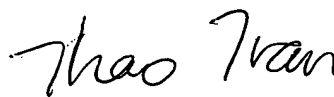
***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 571-272-1080. The examiner can normally be reached on Monday-Friday, from 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tt  
January 8, 2005



**THAO T. TRAN  
PATENT EXAMINER**